

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK
SERVANTS OF JESUS AND MARY, INC.,
d/b/a THE FATIMA CENTER

Plaintiff,

**ANSWER TO
SECOND AMENDED
COMPLAINT
Civil No.:18-cv-00731**

v.

THE NATIONAL COMMITTEE FOR THE
NATIONAL PILGRIM VIRGIN OF CANADA,
and, THE FATIMA CENTER U.S.A., INC., and
ANDREW CESANEK

Defendants.

Defendant, ANDREW CESANEK, by and through his attorneys,
HAGERTY & BRADY, as and for his Answer to Plaintiff's Second Amended
Complaint, alleges as follows upon information and belief:

1. Denies each and every allegation contained in paragraphs 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 68, 69, 70, 129, 130, 132, 133, 134, 135, 136, 138, 204, 205, 206, 207, 208, 209, 210, 212, 213, 214, 215, 216, 217, 218, 220, 221, 222, 223, 224, 225, 226, 228, 229, 230, 231, 232, 233, 234, 235, 237, 238, 239, and 240 of Plaintiff's Second Amended Complaint ("the Second Amended Complaint").

2. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraphs numbered: 1, 2, 3, 4, 8, 9, 10, 11, 12, 13, 14, 16, 17 , 18, 19, 20, 21, 22, 23, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 71, 72, 73, 74, 75, 76, 77, 82, 89, 90, 91, 92, 98, 99, 100, 101, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 131, 137, 140, 141, 142, 143, 144, 145, 147, 148, 149, 150, 151, 152, 154, 155, 156, 157, 158, 159, 161, 162, 163, 164, 165, 166, 168, 169, 170, 171, 173, 174, 175, 176, 177, 178, 179, 181, 182, 183, 184, 185, 186, 187, 188, 189, 191, 192, 193, 194, 195, 196, 198, 199, 200, 201, 202, and 241 of the Second Amended Complaint.

3. Admits the allegations contained in paragraphs 5, 15, 63, 67, 80, 81 of the Second Amended Complaint.

4. With respect to paragraphs 139, 146, 153, 160, 167, 172, 180, 190, 197, 203, 211, 219, 227, and 236 of the Second Amended Complaint, Defendant repeats and realleges each and every admission or denial of the allegations with the same force and effect as though fully set forth herein.

5. With respect to the allegations contained in paragraphs 6, 7, 62, 64, 65, 66, 78, 80, 81, 94, admits that Defendant served on the board of directors of Plaintiff, and admits that Defendant was paid wages through

Plaintiff, but denies the characterization of “was an employee of Plaintiff” and each and every other allegation contained therein.

6. With respect to the allegations contained in paragraphs 79, 83, 84, 85, 86, 87, and 88, states that the document referenced therein speaks for itself, and denies each and every other allegation contained therein.

7. With respect to the allegations contained in paragraphs 93, 95, 96, and 97, states that the document referenced therein speaks for itself, and denies each and every other allegation contained therein.

8. With respect to the allegations contained in paragraphs 102, 103, and 104, states that the document referenced therein speaks for itself, and denies each and every other allegation contained therein.

AFFIRMATIVE DEFENSES

AS AND FOR A FIRST AFFIRMATIVE DEFENSE, THIS ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND BELIEF

9. The Second Amended Complaint fails to state a claim against this Defendant upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND
BELIEF**

10. Plaintiff has acted in bad faith in bringing this action against this Defendant.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND
BELIEF**

11. Plaintiff's claims are barred by the doctrine of unclean hands.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND
BELIEF**

12. Plaintiff's claims against this Defendant are barred because Plaintiff's damages, if any, were not caused by this Defendant.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND
BELIEF**

13. Plaintiff's claims against this Defendant are barred by the doctrine of equitable estoppel.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND
BELIEF**

14. The claims in the Second Amended Complaint are barred, in whole or in part, because of a failure to mitigate damages, if such damages exist.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND
BELIEF**

15. Plaintiff's claims against this Defendant are barred by the doctrine of laches.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND
BELIEF**

16. Plaintiff's claims against this Defendant are barred by the doctrine of waiver.

**AS AND FOR AN NINTH AFFIRMATIVE DEFENSE, THIS
ANSWERING DEFENDANT ALLEGES UPON INFORMATION AND
BELIEF**

17. Plaintiff's claims against this Defendant are barred by the business judgment rule.

WHEREFORE, this answering Defendant hereby demands judgment dismissing Plaintiff's Second Amended Complaint, together with costs and

disbursements of this action, and such other and further relief as this Court deems just and proper.

Dated: January 13, 2021
Buffalo, NY

HAGERTY & BRADY

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